

March 12, 2020

Via ECF

The Honorable Jesse M. Furman
United States Magistrate Judge
Southern District to New York
Thurgood Marshall Courthouse
40 Foley Square
New York, NY 10007

**Re: *Boyce v. Weber*, Case No. 1:19-cv-03825-JMF
 Joint Letter Motion to File Under Seal**

Dear Judge Furman:

I am writing jointly on behalf of counsel to the parties in the above-entitled action to respectfully ask the Court to permit portions of Plaintiff's Response to Defendants' Motion for Summary Judgement and Plaintiff's Response to Defendants' *Daubert* Motion and supporting documentation for both motions be filed under seal and contain redactions.

On February 24, 2020, Your Honor temporarily granted a substantially similar joint letter motion (DE 83), to file the following materials from Defendant's motions, under seal/with redactions:

- (1) Sexually explicit photographs of Plaintiff;
- (2) Correspondence concerning alleged sexual encounters between the Plaintiff and third parties;
- (3) Expert Report of Plaintiff's Expert, Dr. Ho; and
- (4) The transcript of Dr. Ho's deposition.

It is Plaintiff's position that in addition to the above materials, the following materials in Plaintiff's Responses should be filed under seal/with redactions:

- (1) The transcript of the Deposition of Defendants' Expert, Dr. Mills; and
- (2) Nude photographs of third parties.

It is Plaintiff's position that Dr. Mills' deposition contains both raw data testing materials for which Judge Netburn ruled were highly confidential on January 15, 2020, and additionally contains highly sensitive medical information of Plaintiff and his family. It is further Plaintiff's position that the nude photographs of third parties are highly sensitive and subject to privacy concerns. Therefore, Plaintiff believes such materials should be filed under seal and redacted.

I have been advised that Defendants defer to Plaintiff's position for purposes of today's filing and may revisit the scope of the sealing at a future date.

Per this Court's Electronic Case Filing Rules & Instructions, Counsel for Plaintiff will file the subject documents under temporary seal and relate them to this motion. Counsel for Plaintiff will also publicly file said materials with redactions

If and when this Court grants this Letter Motion, Counsel for Plaintiff will re-file said materials with redactions.

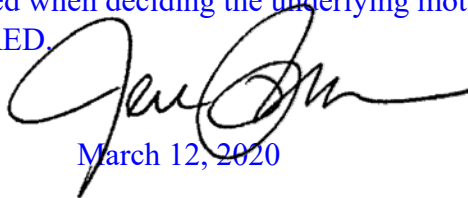
Per Judge Netburn's January 15, 2020 Order, this Court's Local Rules, *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110 (2d Cir. 2006), providing for the narrowly tailored sealing of documents when "higher values necessitate" (Id.) and *Geller v. Branick Int'l Realty Corp.*, 212 F.3d 734, 738 (2d Cir. 2000), the parties respectfully request this Court permit Plaintiff to file his letter response under seal and/or with redactions.

Respectfully submitted,

/s/ Arick Fudali

Arick Fudali
Attorneys for Plaintiffs

The motion to seal is GRANTED temporarily. The Court will assess whether to keep the materials at issue sealed or redacted when deciding the underlying motion. The Clerk of Court is directed to terminate ECF No. 90. SO ORDERED.



March 12, 2020

B